

ESTTA Tracking number: **ESTTA641584**

Filing date: **11/26/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92060209
Party	Defendant Superpoints LLC
Correspondence Address	SUPERPOINTS LLC 5112 KITE TRAIL AUSTIN, TX 78730 UNITED STATES
Submission	Answer
Filer's Name	Jeffrey Faucette
Filer's e-mail	jeff@skaggsfaucette.com
Signature	/s/
Date	11/26/2014
Attachments	Signed Answer to Petition.pdf(190286 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

RAKUTEN, INC.,

Petitioner,

v.

SUPERPOINTS LLC

Respondent.

Cancellation No. 92,060,209

Registration No. 3,936,303

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO PETITION FOR CANCELLATION

Respondent Superpoints LLC (“Respondent”) does hereby answer Petitioner Rakuten, Inc.’s (“Petitioner”) Petition for Cancellation as follows:

Answering the preamble on page 1 of the Petition for Cancellation, Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning Petitioner’s organization, location and belief that it will be damaged by the existence of Respondent’s registration and therefore denies these allegations.

1. Respondent lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 1 and on that basis denies them.

2. Admitted.

3. Respondent admits that it is a limited liability company. Except as specifically admitted, Respondent denies the remaining allegations contained in Paragraph 3.

4. Admitted.

5. Admitted.

6. Admitted.
7. Admitted.
8. Admitted.
9. Denied.
10. Denied.
11. Denied.
12. Denied.

AFFIRMATIVE DEFENSES

Respondent sets forth its affirmative defenses below. By setting forth these affirmative defenses, Respondent does not assume the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Petitioner. Moreover, nothing stated herein is intended or shall be construed as an acknowledgement that any particular issue or subject matter is relevant to Petitioner's allegations.

FIRST AFFIRMATIVE DEFENSE

(Laches)

Petitioner's action is barred by the doctrine of laches.

SECOND AFFIRMATIVE DEFENSE

(Additional Affirmative Defenses)

Respondent hereby gives notice that it intends to rely on any additional affirmative defenses that become available or apparent during discovery and thus reserves the right to amend its answer to assert such additional affirmative defenses.

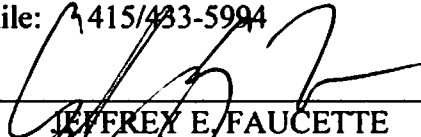
PRAYER FOR RELIEF

WHEREFORE, Respondent prays that Petitioner's Petition for Cancellation of United

States Trademark Registration No. 3,936,303 for the mark SUPERPOINTS be denied.

DATED: November 26, 2014.

JEFFREY E. FAUCETTE
SKAGGS FAUCETTE LLP
One Embarcadero Center, Suite 500
San Francisco, California 94111
Telephone: 415/315-1669
Facsimile: 415/433-5994

A handwritten signature in black ink, appearing to read 'JEFFREY E. FAUCETTE', is written over a horizontal line.

Attorney for Respondent
SUPERPOINTS LLC

PROOF OF SERVICE BY MAIL

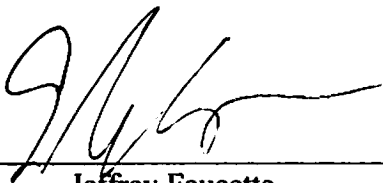
The undersigned declares and says as follows: my business address is One Embarcadero Center, Suite 500, San Francisco, CA 94111. I am employed in the City and County of San Francisco; I am over the age of 18 years, and I am not a party to this cause. I am readily familiar with this business' practices for collection and processing of correspondence for mailing with the United States Postal Services. On the same day that a sealed envelope is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

On November 26, 2014, I served the within **ANSWER TO PETITION FOR CANCELLATION** to Petitioner's correspondent of record:

C. ANDREW IM, ESQ.
IM IP LAW PLLC
29 CHASE ROAD #355
SCARSDALE, NY 10583
UNITED STATES
docket@imiplaw.com

by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, for deposit in the United States mail for collection and mailing on this day following ordinary business practices of Skaggs Faucette LLP.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, and that this Declaration is executed in San Francisco, California, this 26th day of November, 2014.



Jeffrey Faucette